

**RULES
OF
THE BOARD OF DIRECTORS OF THE TUITION GUARANTY FUND**

**CHAPTER 1710-1-2
ADMINISTRATION OF THE TUITION GUARANTY FUND**

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1710-1-2-.01 NAME AND PREFACE.

The name of the board shall be the Board of Directors of the Tuition Guaranty Fund (hereinafter called “the Board”). These rules for the Board are complementary to the definitive language in T.C.A. §49-7-2018 which is a part of the Tennessee Postsecondary Education Authorization Act, as amended.

Authority: T.C.A. §49-7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990.

1710-1-2-.02 PURPOSE.

The purpose of the Board shall be to collect and disburse, on the basis of valid claims, funds assessed and collected from the private postsecondary vocational institutions providing instruction in Tennessee. In addition the Board shall make annual reports on the status of the Tuition Guaranty Fund to the Governor, General Assembly, and participating institutions.

Authority: T.C.A. §49-7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990.

1710-1-2-.03 MEMBERSHIP.

The members of the Board shall be the Comptroller, the Commissioner of Finance and Administration, the State Treasurer, the Chairman of the Advisory Committee on Postsecondary Education Institutions to the Tennessee Higher Education Commission, a representative of the private vocational education industry named by the Chairman of the Commission, and the Executive Director of the Tennessee Higher Education Commission, or their designees, so designated in writing. The State Treasurer, or his designee, shall be chairman.

Authority: T.C.A. §49-7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990.

1710-1-2-.04 EXECUTIVE COMMITTEE.

The Chairman and the Executive Director of the Tennessee Higher Education Commission shall serve as the executive committee which shall have the primary responsibility of calling meetings of the Board.

Authority: T.C.A. §49-7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990.

1710-1-2-.05 MEETINGS.

Meetings of the Board shall be as necessary in view of the executive committee.

Authority: T.C.A. §49-7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990.

1710-1-2-.06 MINUTES.

Minutes of all meetings shall be maintained by staff provided by the Tennessee Higher Education Commission.

Authority: T.C.A. §49-7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990.

1710-1-2-.07 QUORUM.

All actions taken by the Board shall be on the basis of a supporting vote of four members, or their designees. Designees shall be confirmed by placement of nominating letter on file with the Chairman of the Board.

Authority: T.C.A. §49-7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990.

1710-1-2-.08 BASIS AND PROCEDURES FOR COLLECTION OF FUND.

The basis for collection of assessments into the Tuition Guaranty Fund shall be as follows:

- (1) All private postsecondary vocational educational institutions which provide instruction in Tennessee which are nonexempt under TCA, §49- 7-2001 *et seq.* and its rules or are exempt from related annual reporting requirements on the basis of accreditation as a degree-granting institution shall pay each assessment year into the Tuition Guaranty Fund as required in TCA. §49-7-2018.
- (2) The payments *will* be placed in the Tuition Guaranty Fund which shall be established in the treasury as a separate, revolving, non-reverting agency account for the purpose of receiving fees and paying claims authorized by this Act. Administration of this fund is the sole responsibility of the Board of Directors of the Tuition Guaranty Fund, which is authorized to establish rules and by-laws.
- (3) For purposes of the administration of the Tuition Guaranty Fund the following terms have the meanings indicated:
 - (a) “Act” means the Tennessee Postsecondary Education Authorization Act as amended.
 - (b) “Assessment year” means the institution’s Previous fiscal year and is the term to which gross tuition collected is applicable. The institution’s fiscal year shall be the same as used for the basis of collecting licensure fees as prescribed in rule 1540-1-2-.18(3)
 - (c) “Fund” means Tuition Guaranty Fund.
 - (d) “Gross tuition collected” means the total dollars received during the assessment year from or on behalf of students as payment for instruction programs and courses, except for non-refundable registration and application fees and charges for materials, supplies, and books which have been purchased by and are the property of the enrollees.
 - (e) “Board” means the Board of Directors of the Tuition Guaranty Fund as described in the Act.

(Rule 1710-1-2-.08, continued)

- (f) "Private postsecondary vocational education institution" means an entity which maintains a place of business within Tennessee or solicits business in Tennessee and which offers or maintains a course or courses of instruction or study, or at which place of business such a course or courses of instruction are available through classroom instruction or by correspondence or both, to a person or persons for the primary purpose of training and preparing for a field of endeavor in a business, trade, technical, service or industrial occupation.
- (g) "Authorization year" is the twelve month period beginning each July 1, unless otherwise defined in rule 1540-1-2.
- (4) (a) Payment of fees into the Fund by all institutions organized to provide instruction in Tennessee as private postsecondary vocational educational institutions in accordance with the schedule set forth below shall be made on or before each May 15, except payment of the assessment for the 1989 calendar year will be due within 60 days of the effective date of these rules.
- (b) Payment to Fund by Institutions:

Gross Tuition Collected During Assessment Year		Payment into Fund
\$ 1 -	\$ 25,000	200
25,001 -	50,000	250
50,001 -	100,000	300
100,001 -	200,000	400
200,001 -	300,000	500
300,001 -	400,000	600
400,001 -	500,000	700
500,001 -	750,000	1000
750,001 -	1,000,000	1250
1,000,001 -	1,500,000	1500
1,500,001 -	2,000,000	2000
over 2,000,000		2,000 plus 1/10th of 1% of all gross tuition over 2,000,000

- (c) The staff of the Tennessee Higher Education Commission will mail notices to each private vocational educational institution providing instruction in Tennessee between February 1 and February 15 each year. Notices for the 1989 calendar year will be mailed immediately after the effective date of these rules.
- (d) The payment into the Fund shall be made payable to the Treasurer, State of Tennessee and forwarded to the licensure staff of Tennessee Higher Education Commission. The school director must sign and date the assessment form and verify by his signature that the school will maintain an auditable set of records which documents the reported gross tuition collected during the subject assessment year.
- (e) The Board will establish a minimum level of funds necessary for its purposes of \$300,000 and suspend collection. The Board may resume collection of fees at such time as the fund balance drops below a minimum of \$300,000. Institutions authorized on or before July 1, 1989 will not be required to maintain a bond after fee payment for one assessment year. The Board may

(Rule 1710-1-2-.08, continued)

reinstate the bond requirement if the fund falls below the minimum level of \$300,000. Institutions which begin authorized operation after July 1, 1989, must meet the bonding requirements in §49-7-2013 of the Act for a period of two complete authorization years and pay guaranty fund assessments as specified in T.C.A. §49-7-18(d) for at least four years.

Authority: T.C.A. §49-7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990. Amendment filed January 14, 1993; effective April 30, 1993.

1710-1-2-.09 BASIS AND PROCEDURE FOR DISBURSEMENT OF FUND.

- (1) The basis and procedure for disbursement of funds from the Tuition Guaranty Fund shall be as follows:
 - (a)
 1. In the event an institution participating in the fund goes into bankruptcy, or for any reason closes operation without completing its educational obligation or reimbursing its students, the Board will reimburse to the enrollees or lender valid, in view of the Board, unearned tuitions paid to that institution which are supported by documentable claims. Under conditions acceptable to the Tennessee Higher Education Commission, as described in rule 1540-1-2-.17, other participant institutions may provide satisfactory teachout arrangements for the enrollees in a similar program in lieu of utilization of monies from the Tuition Guaranty Fund. Students who are eligible for the approved teachout option or who have received refunds from other sources shall not be eligible for reimbursement from the fund to the extent of those refunds. Further, whenever any institution is required by these rules to hold an institutional surety bond for the purposes of student indemnification, claims will be satisfied to the extent possible through calling of the bond funds prior to the use of monies from the Fund.
 2. For the purposes of section 1710-1-2-.09 of these rules, the term “valid unearned tuition paid,” “tuition” or “valid claims of students” as expressed in TCA. §49-7-2018(f), consistent with related regulations concerning student financial assistance, shall be defined as including tuition, registration, general graduation, activity, or other fees that are required to be paid by all students attending a particular institution.. Monies supporting tangible goods such as books and equipment purchase costs shall not be reimbursable by the Fund. Monies supporting program specific costs shall not be reimbursable by the Fund. Monies for expenses such as housing, meals, clothing and transportation, not paid directly to and retained by the institution shall not be reimbursable.
 - (b) A claim for reimbursement of unearned tuition shall be made against the Fund within two years of the cessation of operation and forwarded to the licensure staff of the Tennessee Higher Education Commission. Claims must be accompanied by such documents as receipts or cancelled checks, or executed enrollment agreements which document tuition payment. Whenever appropriate documentation is not provided and the Board determines that availability of documentation is beyond the control of the claimant, the Board has the authority to determine the validity and appropriate monetary level of any claim. The Board will act on the claim in a timely manner and will provide to the claimant a written explanation for any action taken, or any basis for delay of action, by the Board. Whenever a claim is based on borrowed tuition, the Board may make any claim payment payable to the lender and/or claimant for that portion of the claim which is unpaid as of the date of action by the Board. There shall be no right for reimbursement of unearned tuition except through the Fund. In the event the Fund is depleted, any unpaid claims for reimbursement properly filed pursuant to this rule shall be retained and acted upon by the Board at such time as the Fund balance is restored.

(Rule 1710-1-2-.09, continued)

- (c) In the event the Fund exceeds \$300,000, the Board may transfer all or a portion of the surplus to the Tennessee Student Assistance Corporation reserve fund or to the credit of the fund for the purpose of administering the Postsecondary Authorization Act pursuant to T.C.A. §49- 7-2018.

Authority: T.C.A. §49- 7-2018. **Administrative History:** Original rule filed March 13, 1990; effective June 26, 1990. Amendment filed January 14, 1993; effective April 30, 1993. Amendment filed May 10, 1993; effective August 29, 1993. Amendment filed August 5, 2002; effective December 27, 2002.